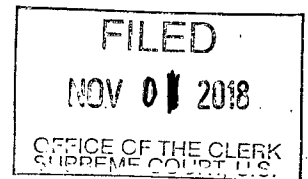


18-7922
No. USCA11 16-17135

ORIGINAL

In The
Supreme Court Of The United
States



Thomas I. LaFleur - Petitioner

Vs.

The United States of America - Respondent(s)

On Petition For Writ Of Certiorari To
The United States Court of Appeals For The 11th
Circuit

Petition For Writ of Certiorari

Thomas I. LaFleur

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Questionn(s) Presented

Did the Eleventh Circuit Court of Appeals error in denying the Petitioner's Subject- Matter Jurisdiction claim, where the charging document's statute [26 U.S.C.S. §5845(e)] did not properly state an offense as this court and The United States Congress defined, as The Petitioner's weapon(s) were outside of the penal statutes scope of regulation and Subject-Matter, as the Petitioner's weapon(s) fully complied with all federal & state registration requirements, as well as this courts decision(s) in Staples & Freed (refferenced above) as (Pistol(s) nor Revolver(s) having rifled bore(s) can not be classified as a "Firearm" under The National Firearms Act's definitions [26 U.S.C.S §5845(a) & 26 U.S.C.S §5845(e)] given the statutes' clear and plain language?

List of Parties

[X] All parties appear in the caption of the case on the cover page.

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3. United States v. Owens , 103 F. 3d 953 (1997) US App (No 95-3107)
4. United States v. Fix , 4 Fed App'x 324 (Ca9 2001) (No. 99-30235)
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26. Insurance Corp. of Ireland Ltd. v. Compagnie des Bautes de Guinee, 456 U.S. 694, 702 (1982)

Statutes and Rules

26 U.S.C.S §5801 et seq.

18 U.S.C.S §921 et seq.

Other

United States Constitution

In The
Supreme Court Of The United
States

Petition For Writ Of Certiorari

Petitioner respectfully prays that a writ of certiorari issues to review the judgment below.

OPINIONS BELOW

The opinion of the United States court of Appeals appears at Appendix A to the petition.

The opinion of the United States district court appears at Appendix B to the petition.

Jurisdiction

[X] For cases from Federal courts:

The date on which the United States Court of Appeals decided my case was
March 28th 2018.

[X] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: June 1st 2018, and a copy of the order denying rehearing appears at Appendix N.

[X] An Motion To Extend Time To File The Petition For A Writ Of Certiorari was denied on September 13th, 2018, and a copy of the order denying extension of time appears at Appendix D.

The jurisdiction of this court is invoked under 28 U.S.C Subsection 1254(1).

Constitutional and Statutory Provisions
Included

4th Amendment, the right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches, and seizures, shall not be violated, and no warrants, shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and thee persons or things to be seized;

5th Amendment, no person shall be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation;

6th Amendment, in all criminal prosecutions, the accused shall enjoy the right to trial by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of effective counsel for his defence; jurisdiction and venue in federal cases, 18 U.S.C. subsection 3231 et seq., venue in federal criminal case, U.S.C.S federal Rules of Criminal Procedure 18 - 22;

8th Amendment, excessive bail shall not be required, nor excessive fines imposed, no crule and unusual punishments inflicted;

9th Amendment, the enumeration in the constitution, shall not be construed to deny or disparage others retained by the people;

13th Amendment, neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction;

14th Amendment, all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State

Constitutional and Statutory Provisions Involved

(Continued.....)

wherein they reside. No stat shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life , liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of laws.

18 U.S.C.S subsection 3231, the district courts of the United States shall have original jurisdiction, exclusive of the courts of the states, of all offenses against the laws of the United States. Nothing in this title shall be held to take away or impair the jurisdiction of the courts of the several states under the laws thereof.

18 U.S.C.S. subsection 3238, offenses not committed in any district.

26 U.S.C.S. subsection 5845(a) Firearm, the term 'firearm' means (1) a shotgun having a barrel or barrels of less than 18 inches in length; (2) a weapon made from a shotgun if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length; (3) a rifle having a barrel or barrels of less than 16 inches in length; (4) a weapon made from a rifle if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length; (5) any other weapon, as defined in subsection (e); (6) a machinegun; (7) any silencer (as defined in section 921 of title 18, United States Code); and (8) a destructive device. The term 'firearm' shall not include an antique firearm or any device (other than a machinegun or destructive device) which, although designed as a weapon, the Secretary finds by reason of the date of its manufacture, value, design, and other characteristics is primarily a collector's item and is not likely to be used as a weapon.

26 U.S.C.S. Subsection 5845(c) rifle, the term 'rifle' means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed

Constitutional and Statutory
Provisions Included
(Continued.....)

or redesigned made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger, and shall include any such weapon which may be readily restored to fire a fixed cartridge.

26 U.S.C.S §5845(d) Shotgun, the term 'shotgun' means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of projectiles (ball shot) or a single projectile for each pull of the trigger, and shall include any such weapon which may be readily restored to fire a fixed shotgun shell.

26 U.S.C.S §5861(d) it is unlawful for any person to "possess a firearm which is not registered to him in the National Firearms Registration and Transfer Record". The Term "firearm" is defined in 26 U.S.C.S §5845(a)(3) as inter alia, a rifle having a barrel of less than 16 inches.

26 U.S.C.S §5845(e) Any Other Weapon, the term 'any other weapon' means any weapon or device capable of being concealed on the person from which a shot can be discharged through the energy of an explosive, a pistol or revolver having a smooth bore designed or redesigned to fire a fixed shotgun shell, weapons with combination shotgun and rifle barrels 12 inches or more, less than 18 inches in length, from which only a single discharge can be made from either barrel without manual reloading, and shall include any such weapon which may be readily restored to fire. Such term shall not include a pistol or a revolver having rifled bore, or bores, or weapons designed, made or intended to be fired from the shoulder and not capable of firing fixed ammunition.

26 U.S.C.S §5841 Registration of Firearms. (a) Central registry, the secretary shall maintain a central registry of all firearms in the United States which are not in the possession of under the contril of the United States. This registry shall include (1) Identification of the firearms; (2) date of registration; and (3) Identification and address of person entitles to possesion of the firearm. (b) By whom registered, each manufacturer shall notify the Secretary of the manufacture of a firearm in such manner as may by regulations be prescribed and such notification shall effect the registration of the firearm required by this section. Each importer, maker, and transferor of a firearm shall, prior to importing, making, or transferring a firearm, obtain authorization in such manner as required by this chapter [26 U.S.C.S §5801 et seq.] or regulations issued thereunder to import, make, or transfer the firearm, and such authorization shall effect the registration of the firearm required by this section.

Constitutional and Statutory
Provisions Included
(Continued.....)

26 U.S.C.S. § 5811, Transfer Tax(a) Rate, there shall be levied, collected, and paid on firearms transferred a tax at the rate of \$200 for each firearm transferred, except, the transfer tax on any firearm classified as any other weapon under section 5845(e) [26 U.S.C.S. §5845(e)] shall be at the rate of \$5 for each such firearm transferred.(b) By whom paid, the tax imposed by subsection(a) of this section shall be paid by the transferor.

26 U.S.C.S. §5812(b) Transfer of possession, the transferee of a firearm shall not take possession of the firearm unless the Secretary has approved the transfer and registration of the firearm to the transferee as required by subsection(a) of this section.

26 U.S.C.S §5821(b) Making Tax, by whom paid, the tax imposed by subsection (a) of this section shall be paid by the person making the firearm .

26 U.S.C.S. §5849, Citation of Chapter, this chapter [26 U.S.C.S. §5801 et seq.] may be cited as the 'National Firearms Act' and any reference in any other provision of law to the 'National Firearms Act' shall be held to refer to the provisions of this chapter [26 U.S.C.S. §5801 et seq.]

27 C.F.R. §479.1 General, this part contains the procedural and substantive requirements relative to the importation, manufacture, making, exportation, identification and registration of, and the dealing in, machine guns, destructive devices and certain other firearms under the provisions of the National Firearms Act (26 U.S.C. Chapter 53)

27 C.F.R §479.11 Meaning of terms, when used in this part and in forms prescribed under this part, where not otherwise distinctly express or manifestly incompatible with the intent thereof, terms shall have the meanings ascribed in this section.

28 U.S.C.S. §1291, Final decisions of district courts, the courts of appeals shall have jurisdiction of appeals from all final decisions of the district courts of the United States, except where a direct review may be had in the Supreme Court.

28 U.S.C.S. § 1254, Courts of appeals; certiorari; certified questions, cases in the courts of appeal may be reviewed by the Supreme Court by the following methods: (1) By writ of certiorari granted upon the petition of any party to any civil or criminal case.

2nd Amendment, Right to bear arms, A well regulated militia, being necessary to security of a free state, the right of the people to keep and bear arms, shall not be infringed.

Statement of The Case

Petitioner's conviction under The National Firearms Act of 1934 [26 U.S.C.S §5801 et seq.]'s subsection 5861(d) for unlawful possession of firearm not registered to him was erroneously affirmed by the Eleventh Circuit Court of Appeals. In it plain error review the 11th Circuit denied (in error) the Petitioner's subject-matter jurisdiction claim, based on Respondent's representation of its view of the statutory definition of the term "firearm"

The Petitioner's conviction under the (NFA) National Firearms Act is based on the Respondent's assertion that the Kel-Tec Pistol (originally manufactured by the Kel-Tec company of Cocoa, Florida) lawfully owned by the Petitioner, was in fact to be regulated by the penal statutes of the National Firearms Act of 1934, when in fact the regulatory jurisdiction of the National Firearms Act does not encompass any Pistols or Revolvers with barrels having a rifled bore(s), which the Petitioner's Kel-Tec Pistol does have and did have at the time of trial, thus excluding the Petitioner's weapon from the Jurisdictional Subject-Matter of the National Firearms Act [26 U.S.C.S §5801 et seq.].

On Appeal from the District Court the Petitioner's counsel stated that "the Petitioner was and is not guilty of any federal crime", a statement that has only been replied to by the Eleventh Circuit of Appeals as "If any error occurred it was invited error", a statement that echoes injustice as per Federal Rules of Court (28 U.S.C. §1291) this was in the Jurisdiction of the 11th Circuit Court of Appeals an error they could have corrected just as the District Court could have corrected this same Subject-Matter Jurisdiction error as matters of jurisdiction can be brought to the courts attention at any time.

Even if the District court did not resolve the matter after a final full reading of the statute, the district court Judge stated " I will leave this issue up to the Eleventh Circuit Courts of Appeals to decide".

The jurisdictional issue remains the key question to be answered seeing as Petitioner's counsel was ineffective in showing the courts authority to decide which now leaves this matter in the capable hands of this court to provide clarity to these matters just as it has in Staples. On Appeal to the Eleventh Circuit the Petitioner's Respondents did not prove their assertions to be fact, the jurisdictional facts are the Respondent's burden to prove.

The Eleventh Circuit failed in its panel review for plain error and then denying

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(Continued.....)

the Petitioner's claim for relief, the Eleventh Circuit's opinion is in conflict with innumerable case holdings that jurisdictional defect is always reviewed de novo, United States v. Iquaran, 821 F.3d 1335, 1337 (CA11 2016).

The standard of review was misapplied in the Petitioner's case, where the 11th Circuit barred the Petitioner on "procedural grounds" in error because ("objections to Subject-Matter Jurisdiction, maybe raised at any time. A party, after losing trial, may move to dismiss the case because the trial court lacked subject-matter jurisdiction".) Henderson ex rel. Henderson v. Shinseki, 562 US 428, 434-35 (2011); also ("The objection that a federal court lacks subject-matter jurisdiction maybe raised by a party, or a court on its own initiative, at any stage in the litigation, even after trial and entry of judgment"). This issue was also stated in the Petitioner's Petition For Rehearing or Rehearing En Banc by Petitioner's Appeal Counsel, but went un-reheard with no reason for being denied rehearing by the 11th Circuit's panel of judges.

The statutory definitions given by Congress in the chapter of the National Firearms Act clearly define all weapons and devices within its perview. The Respondent's reply brief to the 11th Circuit (Appendix L) intails an assertion that the Petitioner actually applies a limited scope of regulation to the National Firearms Act of 1934, when this is an erroneous statement, it is actually the Congress of The United States which limits the regulatory statutes of the National Firearms Act of 1934, which since its inactment has been amended several times to ascertain the proper regulatory measures to meet its goal not to encompass innocent legal ownership of weapons that majority of law abiding citizens have the 2nd Amendment right to obtain and the 9th Amendment right which ensures all rights are afforded to everyone.

The National Firearms Act of 1934 only requires certain "firearms" to be (federally) registered with the Secretary, those "firearms" are clearly defined within it's (The National Firearms Act of 1934) statutes definitions at [26 U.S.C.S §5845(a)]. In it's statutes definitions the weapon(s) possessed by the Petitioner do not fit the criteria of The National Firearms Act, once the jury was instructed these definitions were not presented as a question they must consider.

At the close of the government's case the jury was also instructed that the testimony given by ATF Agent Eve Eisenbise was to be considered as "Expert" testimony, even though she admitted to having no legal knowledge, which the court held as "fact", when in-fact Agent Eisenbise educated the jury based on non-legal evidence.

Statement of The Case
(Continued.....)

To take a non-signed ATF Flyer and testimony given on that Flyer with no legal authority, then turn to the jury and give the jury instructions on the same non-legal "evidence" endangers justice. At this same time the Petitioner's counsel could not object because oral argument had been given and counsel was not effective in his arguments because they lacked any legal authority, which left the Petitioner prejudiced as to no further legal avenue to pursue at trial.

Once the instructions were given to the jury it layed out that the Petitioner must be guilty, which removes the constitutional standard of "due process" the 6th Amendment guarantees and violates the 9th Amendment's "rights insured to everyone" clause and rendered the jury mis-informed. The well informed jury clause of the Constitution of The United States was also well pass in deficit in this instance as the actual statute in which the Petitioner was indicted on of "knowingly" in possession if a "firearm" had not been proven as the government admitted in the closing arguments "a standard they could not meet, unless they were able to examine the Petitioner's head and see in it".

In the charging document the government stated the Petitioner was "knowingly in the possession of a "firearm", which he knew to be unregistered to him, but the Respondent(s) have not been able to show this to be a fact. The indictment specified the defining statutes 26 U.S.C.S §5845(a) & (e), this is not correctly stated as §5845 starts off with the phrase "For the purpose of this chapter", which means on its own this statutes outline any violations and any exemptions that will be defined within these statutes, §5845 includes and also excludes several types of weapons and devices. The excluded weapons and devices are not in the perview of the National Firearms Act of 1934 and the included weapons and devices are regulated by the penal statutes of th National Firearms Act of 1934.

The definitions of the terms used in and for the purpose of regulation by the National Firearms Act of 1934 expressly excluded the Petitioner's Kel-Tec Pistol which has a rifled bore just as §5845(a)(e) states (Pistols & Revolvers having rifled bores can not be classified as "Any Other Weapon" nor can they be classified as a "firearm". This means the indictment to which the Respondent(s) brought against the Petitioner Prima Facia actually did not allege any actual violation in or against the United States of America.

On trial the Respondent's key evidence, Eve Eisenbise testified almost verbatim, the contents of the online ATF Flyer. The Flyer suggests that all the implementations

Statement of The Case
(Continued.....)

of 27 CFR §479.11 are of the National Firearms Act of 1934, which is not a true statement. The Flyer also give a definition of "Pistol" given from a regulatory measure therein 27 CFR §479.11, which is not applicable to the governing statutes of the National Firearms Act. This is the line of thought that gives was to violation of "Due Process" as the regulations outlined in The National Firearms Act of 1934 are clearly stated therein [26 U.S.C.S §5801 et seq.], which only covers the statutes of title 26 of U.S. Code.

The Flyer also outlines a definition of "handgun" which is also from another title of United States Code, title 18 U.S.C.S §921(a)(29)(A). This statute covers parts of United States Code that encompasses the Gun Control Act of 1994, as Eve Eisenbise stated in her testimony "the Petitioner's weapon classified as an (GFA weapon) Gun Control Act weapon, is in actuality the only statute(s) that govern the Petitioner's weapons as the process for purchasing a weapon in the United States was testified to by the Petitioner himself at trial, the Petitioner defined this procedd by outlining the methods of payment he used, the manner in which he had to wait i.e the waiting period he went through, and the background check via the National Instant Criminalbackground check System service which is a governing regulation of the Gun Control Act."

Eve Eisenbise's testimony that the Petitioner's weapon was a (GFA) weapon went unheard and unspecified by both Petitioner's Counsel & The Government, this small minute portion of testimony meant more than the jury was informed of thus leaving them further uninformed, this information that was left out of the Respondent's prosecution falls under the Brady Material, where any information as to the Petitioner's innocence must be provided at trial. If this jury of the Petitioner's peers was left un-informed for any reason it taints the judicial process as "due process of law" Requires all steps of the process of law be followed in order to hold an convictions.

ATF Agent Eve Eisenbise also testified that she knew the original maker and model of the Petitioner's weapon, with this information and the serial number found intact in its proper location she was able to ascertain the weapon's history as to when it was made and where (Kel-Tec Pistol of Cocoa, FL), but the making history and subsequent weapon transfer history was not provided to the jury. Neither Petitioner's Trial Counsel nor the Government Counsel was able to summarize the amount of detail that was contained in Ms. Eisenbise stating the Petitioner's weapon was a GCA Weapon, if the co counsel had no clue of all that was left out then how could the jury.

In the same accord the Petitioner's description of how he lawfully purchased and

Statement of The Case
(Continued.....)

obtained his weapon also went unheard. The Petitioner perfectly described the process outlined in the GunControl Act's statutes of 18 U.S.C.S §921 et seq., these statutes define how to lawfully conduct weapons transfers and who(m) maybe in possession of any weapons (guns) at any time within the United States of America. The definitions used within this chapter of the Gun Control Act are at 18 U.S.C.S §922 and the penal statutes are outlined at 18 U.S.C.S §924. The defined weapons therein the Gun Control Act can not be used to penalize an individual under the National Firearms Act unless they have in-fact violated statutes within the definition(s) of title 26 of US Code 5801 et Seq. as well, but this was and is not the case. The Petitioner's weapon was well defined under the GCA and not defined as regulated in the National Firearms Act. One was to see this is as Guns could be Firearms but not all Firearms are Guns, as one of the key "firearms" regulated under the (NFA)'s statutes perview is what is known as a "silencer-r", a silencer is a device used that extends on to a guns barrel and is used to muffle or distort the loud sound made when the gun is fired, which is clearly defined as a "firearm" regulated by the National Firearms Act of 1934.

The statutes of the National Firearms Act clearly and plainly inform those who(m) would be processcuted of any such requirements neccessary. The reasoning and line of prosecution combining the terms is not one that validly informs the jury of all the elements to be considered to convict the Petitioner and is a violation of the "due process" clause of the constitutions 6th Amendment, which violates the 9th Amendment as well as the 13th and 14th Amendments as the Petitioner ~~served~~ served a 14 month term of imprisonment imposed after being convicted of a crime he did not commit, is now a convicted felon, which he was not prior and ordered to a term of supervised release which was revoked, as to other hinderances placed on his liberties.

While at trial the Petitioner attempted to show lack of "knowingly being in possession by testifying to the manner in which he became in possession of his Kel- Tec Pistol and all of his weapons, Petitioner's trial counsel asked him to verify the markings on his Pistol showing it's compliance with the statutes of the Gun Control Act's definitions statutes 18 U.S.C.S §921 et seq.

The Petitioner's Kel - Tec Pistol falls under the (GCA) Gun Control Act's statutes as clearly defined at 18U.S.C.S §922. The statutes within the Gun Control Act, help to regulate the sale and purchase of weapons within the United States, by the Petitioner being able to show the court this on testimony (an actual legal standard should have put the court on notice that subject -matter jurisdiction of the indicted charge was in

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(Continued.....)

deficit, but the Petitioner didnot state any statutes only the process' used to acquire his weapons (in court argument and side bars kept Petitioner from adding any support to his statements), nor did his trial counsel state any legal authority to substantiate these statements. In addition to the Petitioner's testimony, Eve Eisenbise also stated the Petitioner's Kel - Tec Pistol was a weapon regulated under the statutes of the Gun Control Act as well without stating any legal authority.

The reason the Petitioner's testimony at trial is relevant is because if the Petitioner knows his weapons fit the statutory definitions of the Gun Control Act there would not be any notice for the Petitioner to be given of prosecution under the National Firearms Act's statutes given that the definitions of the (NFA) at 26 U.S.C.S §5845(a)(e) excludes the Pititioner's weapons and any Pistol(s) or Revolver(s) having rifled bore(s) , as the Petitioner's Kel-Tec Pistol does, so Eve Eisenbise's testimony was only partially true. :

For these reasons stated, it was necessary for it to be clearly stated by the Respondent -'s "expert" that the Petitioner was in full compliance with the (GCA) Gun Control Act 's statutes, which she did not do. The Respondent relied on this testimony and line of reasoning stated by Eve Eisenbise to find the Petitioner guilty of a non-existent violation, by attempting to relate the definitions from both chapters of United States Code , which are under the perview of the Bureau of Tobacco and Firearms but each chapter defines what constitutes a violation in each in separate penal statutes.

As authorized by then President Barack Obama, the Attourney General and his designees were to gather and furnish any and all relevant data as to criminal investigations relevant to any criminal cases involving guns, in this Petitioner's case that designee would be the Bureau of Alcohol, Tobacco and Firearms. If any violation existed with weapons owned by the Petitioner the violation would have been regulated by the Gun Control Act and its statutes [18 U.S.C.S §921 et seq.], within the amended statutes of the Gun Control Act , which could be called the Brady Handgun Violence Prevention Act (18 U.S.C.S §922(t)(1) which established within its statutes measures to prevent prohibited persons from obtaining guns via gun shops and authorized dealers aka licensees, The National Instant Criminal Background Check System (N.I.C.S), which allows states, federal & local law enforcement to be refferenced as means to prevent the sale of weapons through licensees. This same process which the Petitioner described in his testimony regulates how weapons purchased lawfully are to be obtained, which taxes are to be paid and exactly the manner in which Pistols are to be registered.

It is this process and statutes [18 U.S.C.S § 922(t)(1)] which regulate the purchase and

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(Continued.....)

se and sale of weapons like the one(s) owned by the Petitioner, which were lawfully obtained and testified to during his trial.

The statutes within 18 U.S.C.S §921 et seq. are what Eve Eisenbise spoke of when she stated briefly the Petitioner's weapon(s) wre "GCA" weapons meaning the weapon(s) in question were to be regulated by the Gun Control Act [18 U.S.C.S §921 et seq.], which could also be called the BRady Handgun Violence Prention Act. The information obtained during the Respondent(s) investigation would have shown this to be true had it been thoroughly provided at trial. The information not provided that would have shown the Petitioner to be in-fact innocent of the crime charged is a direct violation of this courts views and standards held in Brady v. Maryland 373 US 83 (1963), which this court hold violated "due process" clause of the 14th amendment and left the jury in-fact misinformed, which is a violation of the 6th amendments "well informed jury" clause and furthers unconstitutional mis-justice.

With this previous information no well informed jury could have convicted this Petitioner and the 11th Circuit Court's panel of judges errored by not reviewing these matters de novo. In an opinion delivered by Mr. Justice Douglas (401 US 601 1971) " Under the Act, only possessors who lawfully make, manufacture, or import "firearms" can and must register them; the transferee does not and can not register". (quoting from the National Firearms Act's statutes §5811, §5812, §5821, §5822, §5841). The National Firearms Act of 1934 does not and can not apply as a governing regulation of the weapon(s) owned by the Petitioner as Pistol(s) nor Revolver(s) having rifled bores can not be a "firearm" under the National Firearms Act's scope of regulation (26 USCS §5845(a)(e)).

On appeal for the Fifth Circuit Joe A. Anderson v. United States 885 F.2d 1248 (1989) court over-ruled the District Court's precedent and reversed Mr. Anderson's conviction of violating the National Firearms Act of 1934, because the government was required to show evidence that Mr. Anderson knew the "firearm" a Pistol fit the statute's regulation. In this Petitioner's Appeal to the 11th Circuit this holding was not applied as the Supreme Court outlined. Anderson was controled by the en banc rehearing decison that the fifth circuit court held in United States v. Vasquez 476 F.2d 730 5th Circuit, were specific intent i.e mens rea must apply as the United States Congress fully intended upon en acting the National Firearms Act of 1934, this view was then also echoed again in Staples which the Eleventh Circuit failed to apply in its plain error review of the Petitioner's appeal. Even if the "only knowledge required to be proven wass knowledge that weapon(s) owned were 'firearms' as in the definition of

Statement of The Casse
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the statute 26 U.S.C.S §5845 " Sipes v. United States 8th Circuit, 321 F.2d 174, the government failed at this effort and the 11th Circuit failed to not rectify this clear and plain error on review.

The Respondent's interpretation of the National Firearms Act presented at trial and on appeal is inconsistent with criminal law and not the intent of U.S. Congress. Like the Fifth Circuit Court saw it's error in Vasques(476 F.2d 730) and on en banc reviewed its decision compared to the standards held by the Supreme Court's view and the United States Congress' construction of mens rea, the Petitioner's 11th Circuit review should have reversed the conviction of 26 U.S.C.S §5861 on statutory definition alone.

Reason For Granting The Petition

At trial the jury was instructed "A defendant's lack of knowledge of the law or mistaken belief of the law, however, is not a defense to the crime charged in the indictment", this in combination with several other miscarriages are the only reason the Petitioner was convicted. This line of reasoning was presented after the assertion that the charging document i.e the indictment indicates "knowingly possessed" and presented the fact the governments defining of "firearm" as the general term used to describe all guns as in title 18 U.S.C.S §921 et seq. also referred to as the Gun Control Act of 1994 which was not apart of The National Firearms Act of 1934, and enacted to allow enforcement of federal gun violations on the state and local law enforcement levels, also enacted by The Congress of The United States, which the Petitioner had not violated.

To have "knowingly possessed" a "firearm" as defined by the charging document the Petitioner would have had to have in his possession a weapon defined by The National Firearms Act's statute 5845(a) [26 U.S.C.S §5845(a)]. The jury was mis-instructed as to the Act's definition(s) of "firearm", and thus a "mis-informed jury". This courts findings in Freed as to possession of an unregistered firearm indicates the Petitioner's conviction must be revised as there is no violation of The National Firearms Act seeing the weapon in question did not and does not fit it's regulating statutes and the charging document lacked proper subject-matter jurisdiction.

The insufficiency of the evidence required the Appeals Court to review these matters de novo, United States v. Mieres-Borges 919 F.2d 656 (CA11 1990). The National Firearms Act of 1934 only requires certain "firearms" to be registered. It's definition of "firearm" expressly excludes pistols with rifled bore(s) from its perview (26 U.S.C.S §5845(a)(e) by its own statutes definitions. This was not fully acknowledged by the Eleventh Circuit's opinion given it states "if any error exists, it was invited error", which could not be so as the Petitioner fully stated this at DE74;66 and subsequently the trial judge read the statute(s) out in open court showing the subject-matter jurisdiction to be in deficit in the instructions given in the Petitioner's Appeal to the Eleventh Circuit as did in United States v. Rogers (No. 94-4692) in that the jury instructions did not properly address or notify of prosecution. The 9th Circuit Court properly applied this courts findings in Stapled v. United States 511 US 601 (1994), where the Respondent failed to prove any violation(s), instead in the Petitioner's case they relied on faulty jury instructions that rearranged the definitions clearly outlined in the statutory definitions of The National Firearms Act of 1934 and the charging document used in the Petitioner's case.

Reason For Granting Petition
(Continued.....)

The only evidence in support of the Respondent's line of reasoning came in the form of testimony from it's "expert witness" Eve Eisenbise, when in addition to testifying on the Respondent's reasoning she also testified that "she has no legal authoritative knowledge on how the weapon(s) are classified under The National Firearms Act of 1934" and that "the only knowledge she has on the subject is practice knowledge retained from use of similar weapon(s) in her military experience". This in combination with this courts holdings in Staples; Freed and innumerable other cases all indicate the standard of review this court showed was not reflected in the Petitioner's case and is reason for granting this petition.

The chief piece of evidence provided to the jury, ATF Agent Eve Eisenbise's testimony was shown on Appeal to be from an ATF Flyer (non signed) and not any of the statutes of the chapter's definitions listed at [26 U.S.C.S §5845]. The ATF Flyer was not signed by any director(s) no the Secretary or Attourney General whom are it's lead chain of command in charge of overseeing it's operation. In it's Flyer it defines the version of "Pistol" from a non statutory defining (not provided in the National Firearms Act of 1934, which has a limited scope on it's regulation) as many laws govern United States Citizen's weapon ownership, one of those governing laws being the 2nd Amendment right, which was found to be an individual right District of Columbia v. Heller, 554 US. 570 (2008) also see (United States Constitution).

Another reason this petition should be Granted is the actual statutes definition calls for it, in 26 U.S.C.S§5845(e)'s defining of the term "Any Other Weapon" as Eve Eisenbise testified "the Petitioner's Weapon falls into this classification of" and the Respondent attempted to use in the charging document. The statutes definition is as follows; The term "Any Other Weapon" means any weapon or device capable of being concealed on the person from which a shot can be discharged through the energy of an explosive, a pistol or revolver having a barrel with a smooth bore designed or redesigned to fire a fixed shotgun shell, weapons with combination shotgun and rifle barrels 12 inches or more, less than 18 inches in length, from which only a single discharge can be made from either barrel without manual reloading, and shall include any such weapon which may be readily restored to fire. Such term shall not include a pistol or a revolver having a rifled bore, or rifled bores, or weapons designed, made or intended to be fired from the shoulder and not capable of firing fixed ammunition.

Reason For Granting Petition
(Continued.....)

Prima facia the statutory language is reason enough to Grant this Petition as it clearly excludes the Petitioner's weapon(s) from The National Firearms Act's scope of limited subject-matter, as in Staples the Petitioner's weapons do not fit the statutory definitions, which subsequently provides this court the neccessary grounds to Grant this Petitioner's request for Writ of Certiorari.

This court has previously held this statutory language to be clear enough for it's findings in Staples v. United States 511 U.S. 600 (1994). The United States Congress upon implementing this piece of legislation even set forth "given the 10 year possible term of incarceration for violation of [26 U.S.C.S§5801 et seq.] The National Firearms Act of 1934 that proper notice must be given in order to sustain a conviction of the (NFA) National Firearms Act's statutory language", seeing as no notice could have been given as the National Firearms Act does not regulate "Pistol(s) or Revolver(s) with rifled bore(s)" it is cause enough to Grant this petition, as the Petitioner's weapon (s) nor any weapon presented at his trial violated any statute of The United States Code, nor at any time presented.

During hearing for New Trial the government (against several objections) postulated the 11th Circuit's view in United States v. Owens (NO.95-3107) 103 F.3d 953 (1997) U.S. App, which for conviction of the National Firearms Act violation "knowing of the registration requirement", was not required element of the crime, this is erroneous, Owens was a clerk at an consignment shop attempting to make a sale, this application of review could not apply to the Petitioner's case as he outright owned the weapon in his case, which was already registered and transfered to him (the Petitioner) as a Pistol not governed by the National Firearms Act's statutes.

In Owens' case the weapon is a firearm under the NFA's perview soon as he changed the barrel (an integral part) to less than 16 inches as defined by [26 U.S.C.S§5845(a)] of the National Firearms Act of 1934. The theory of "knowledge" in Owens as not a requirement is null soon as an actual criminal act has occured, this is not the case in the Petitioner's case as no crime was committed. The mens rea element to violating any statute(s) of the National Firearms Act can not be eleminated if there is no evidence of a wrongful act. The Eleventh Ciruit also held this courts opinion in United States v. Rogers (No. 94-4692) that Rogers convictions under the National Firearms Act had to be reversed for "insufficiency of evidence" because the government did not introduce any evidence to show Rogers' weapons "knew" or did fir the definitions stated within statutory meanings, as in the Petitioner's case.

Reason For Granting Petition
(Continued.....)

The lack of uniformity is cause enough for this Supreme Court of The United States to issue Petition as the Petitioner (Thomas I. LaFleur) is seeking. To clarify the United States Congress' intent to not leave out the mens rea requirement needed to prove violation of The National Firearms Act's statutes and unify accross the District Courts the burden of proof must be satisfied , in addition these issues must be properly presented to a jury to ensure "due process". A well informed jury is to be guaranteed by the constitution of the United States of America's 5th, 6th, 9th 13th and 14th Amendments.

The 5th Amendment's "due process" clause ensures that the applications of the penal statutes are justly heard in court. If the application of a statute that clearly excludes the Petitioner from being subject to the penalties of imprisonment is not properly adhered to this violates the very foundation of justice itself.

" No person shall be held to answer for a capitol, or otherwise infamous crime unless on a presentment or indictment of a Grand Jury, nor shall any person be deprived of life, liberty, or property, without due process of law"....

6th Amendment's " Impartial Jury" clause sets the standard of review the jury is to use when deciding the facts of the case. For instance, during the Petitioner's one of the jurors admitted to the judge's assistant "that he did not feel safe as a juror on the Petitioner's case and requested to speak to the judge about securing his and the other jurors safety", this concern was heard and dismissed the juror but not before this juror stated " I told the other jurors, they should make sure they hide their names and are not followed home at night". This should have called for immediate mistrial, but the juror was excused for his personal beliefs that " the Petitioner would pay someone to follow the jury home if he is convicted."

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have effective assistance of counsel for his defence."

For every reason stated in the 6th Amendment, this petition should be Granted, none more so than the impartial jury clause. No well-informed jury could have ignored the facts if they had been presented, and the "instructions to the jury in combination with several other miscarriages of justice remove all "impartiality from the Petitioner's jury.

Reason For Granting Petition
(Continued.....)

The 9th Amendment's "rights retained" clause of the United States Constitution is to ensure all rights guaranteed are not denied to the people of the United States of America. By any of the rights guaranteed not being sought to in the Petitioner's case bring forward mis-justice that this Supreme Court is jurisdictionally in powered to fix and correct 28 U.S.C.S §1254(1).

The 13th Amendment's "punishment for crime" clause in the Petitioner's case has been violated as this Petitioner's liberties have all but become void.

The Petitioner has not comitted any crime, but has been subject to steep punishments that border both the 8th & 13th Amendment(s) respectively. Being convicted of a crime that is not a crime in or against the United States of America and serving the term of incarseration of anything over 1 day for something that was not a criminal act is the definition of mis-justice and a crime against justice itself. The Petitioner's term of incarseration lasted 12 months, for which after his liberties were further hindered for another 12 months of supervised release were his normal day - day activities were limited and subject to the demands of the Office of Probation (court fines, community service, and ultimately placed back in prison for nothing ilegal) all while not being guilty of the crime for which constitutional errors occured and statutory evidence to show innocence.

"Neither slavery no involuntary servitude, except as a punishment for crime wherein the party shall have been duly convicted, shall exist within the United States of America, or any place subject to their jurisdiction."

The 14th Amendment adds to the above by stating the following:

" All persons born or naturalized in the United States, and subject to the jurisdiction therof, are citizens of the United States & the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty or property, with out "due process of law"; nor deny to any person within its jurisdiction the equal protection of the law."

In the Petitioner's case the laws being deprived of him are the same laws which are penalizing him and thusly his liberties, property and life have all been deprived under color of law by the Respondent not applying their jurisdictional mandate and the law , and equal protections set forth in the Constitution of the United States of America.

Reason For Granting Petition
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All of these reasons stated are factual basis for this Petition For Writ of Certiorari to be Granted. Even more reason(s) exist but none more important than the concept of clarity. District Courts have a hard enough job, the Circuit Courts position(s) are even more so sought after for review and pressures. This Court has the full and capable jurisdictional powers needed to remove any doubts and questions from the ones stated in this petition, by re-asserting the same standards previously held in the forementioned cases of *Staples v. United States* 511 U.S. 600(1994) and *United States v. Freed* 401 U.S. 601 (1971), that the burden of proof is required to be satisfied and mere innocent possession can not be cause enough for violation of the National Firearms Act's statutes, especially when the statutes exclude the weapon(s) in question.

In these matters the Respondent(s) would ask this Court to overlook the fact that there exists no constitutional standing for its attempt to re-write the National Firearms Act's statutes for which the Petitioner was charged with, nor could they rewrite the statutory definition of "firearm" that the National Firearms Act regulates, as a result of these facts the Eleventh Circuit erred in denying the Petitioner's claims in its plain error review. This error is not a slight, minor, or miniscule error, but an error that the interest of justice requires this Supreme Court to review with the previously mentioned jurisdictional power of oversight given in 28 U.S.C.S §3231 and thusly Grant this Petition For Writ of Certiorari.

The 6th amendment's "impartial jury" clause sets the standard of review the jury is to use when deciding the facts. For instance, during the Petitioner's trial one of the jurors admitted to the judge's assistant that he did not feel safe as a juror on the Petitioner's case and requested to speak to the judge about securing his and the other jurors safety, this concern was heard and dismissed but not before this juror stated "I told the other jurors, they should make sure they hide their names while in the building (Federal Court House) and are not followed home at night." This should have called for immediate mistrial as it prejudices the Petitioner, but the juror was excused for his personal beliefs that "The Petitioner would pay someone to follow them home if he is convicted".

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have previously been ascertained by law, and to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have effective assistance of counsel for his defence".

Reason For Granting
(Continued.....)

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The 9th Amendment "rights retained" clause of the United States Constitution is to ensure all rights guaranteed are not denied to the people of the United States of America. By any of the rights guaranteed not being sought to in the Petitioner's case bring forward mis-justice that this Supreme Court is jurisdictionally in power to correct and fix (28 U.S.C.S §1254(1)).

The 13th Amendment's "punishment for crime" clause in the Petitioner's case has been violated as this Petitioner's liberties have all but become void.

The Petitioner has not committed any crime, but has been subject to steep punishment's that violate both the 8th & 13th Amendments respectively. Being convicted of a crime that is not a crime in or against the United States of America and serving the term of incarceration of anything over 1 day for something that was not a criminal act is the definition of mis-justice and a crime itself against justice. The Petitioner's term of incarceration was to be 14 months, but only lasted 12 months (for good behavior, reduction) after which his civil liberties were further hindered for another 12 months of supervised release, a court fine and community service added on at the will of the Petitioner's Probation Officer, all while not being guilty of the crime for which constitutional errors occurred and statutory evidence to show innocence.

"Neither slavery nor involuntary servitude, except as a punishment for a crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction".

The 14th Amendment adds to the above by stating the following, " All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States of America and the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without "due process of law"; nor deny to any person within its jurisdiction the equal protection of the laws".

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Reason For Granting Petition
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lying their jurisdictional mandate and the laws and equal protections set forth in the constitution of the United States of America.

"This Supreme Court stressed (innumerable cases) that in a criminal case guilt is determined by the jury, not the court.... a judge may direct a verdict for the defendant if the evidence is legally insufficient to establish guilt, he may not direct a verdict for the state, no matter how overwhelming the evidence..." United Bhd of Carpenters v. United States 330 U.S. 395, 410 (1947), this is directly quoted from the Eleventh Circuit's views in United States v. Rogers 94 F.3d 1519, while this was the same situation as described in the Petitioner's case.

One the trial judge gave it's modified jury instruction and the Eleventh Circuit erred by calling the errors presented in the Petitioner's Appeal as being "Invited", if any.

The 11th Circuit and the Respondent's view of the issues at hand have been skewed, and far from the procedural posture set forth by this Supreme Court that no judge may "direct the jury to find a defendant as guilty", which is what has transpired when the judge gave the modified instructions in this Petitioner's case, with no evidence of guilt.

Even if the "discretionary" views of the issues in the Petitioner's case, the statutory defining of the weapon(s) in question calls for the Eleventh Circuit to review these matters de novo, which (26 U.S.C.S §5845(a)(e) clearly and plainly state that no offense occurred in the United States Code. This error in the 11th Circuit's "plain error" review is why Petition For Writ of Certiorari should be Granted. At the district court, the Federal Rule(s) that govern the Motion for New Trial and Motion for Acquittal, Petitioner's counsel "Assumed" they were one and the same when filed, given that the request for new trial was heard and in-error denied by the district judge, which trial counsel presented the same arguments made he used as to the modified jury instructions, that "no evidence had been presented to show the Petitioner knowingly possessed a "firearm" as presented in the indictment", which was true; no evidence was proffered to show guilt, thus it would have been procedurally acceptable for the trial judge to enter a judgment of acquittal sua sponte, instead Motion for New Trial was denied for the precedence set forth in Owen (103 F.3d 953, 11th cir) for "knowing" not being a prerequisite to a crime, which is erroneous as the original indictment stated "knowingly" as the predicate of the offense and the United States Congress directs the National Firearms Act's penal statutes were meant to have "crimi-

Reason For Granting Petition

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nal intent" i.e the mens rea element proven for an offense to have a defendant convicted of any violation of the National Firearms Act's statutes. This error substantially effected many aspects of the verdict as this plain error leaves an otherwise informed individual to become un-informed of any violation as "knowingly" can not be both not an element of the crime and not proven with evidence.

All the elements of the criminal violation must be provided to maintain that a well-informed jury can decide guilt or innocence, "overriding responsibility... to stand between the accused and a potentially arbitrary or abusive Government that is in command of the criminal sanction" United States v. Martin Lienen Supply Co., 430 U.S. 564, 572, 97 s. ct. 1349, 1355, 51 L.Ed 2d 642 (1977).

The government bears the burden of proving beyond a reasonable doubt all elements of a charged crime. In the Eleventh Circuit's plain error review this could not have been found. No legal evidence was provided at trial. The 11th Circuit also erred in its beliefs that the Petitioner testified to possession of a "firearm", this was not so, at trial the Petitioner was cross examined and asked of his ownership of the weapon in question after he on examination stated how he legally purchased his Pistol.

Conclusion

This Petition For Writ of Certiorari should be granted. For every reason stated herein, and in the interest of actual justice as the United States Congress did not intend for innocent possession of lawful weapons to be held to the standard the Respondent(s) have set forth.(innumerable cases) In the case against this Petitioner the Respondent(s) have resorted to every measure to remove a defense from this Petitioner, every measure that has been taken and provided all except the legal standards set and binding this court to oversee the errors of the 11th circuit be corrected.

The Supreme Court, has already decided the standards of review that the 11th Circuit error by not applying. As stated in opinion (Anderson v. United States 885 F.2d 1248 (1989)), the Supreme Court's precedent is apposite as these matters have decided and held that the government is required to prove the Petitioner knew his Kel-Tec Pistol was a "Firearm" within the statutory meaning of the statutes of the National Firearms Act of 1934 [26 U.S.C.S. §5801 et seq.], but seeing that the statutory language excludes Pistol(s) and Revolver(s) having rifled barrel(s) [26 U.S.C.S. §5845(a)(e), which ATF Weapons Tec. Eve Eisenbise testified it in-fact did, this would mean no prosecution could have continued any further. as the Petitioner could not have been notice of prosecution, this statutory language should have been provided to the jury on instruction but was stricken as the government saw the actual statutory language to cause them to be prejudiced. What is true can only be a defect to a lie. The congress of the United States of America implemented these statutes to ensure no one persons interpretation could change or alter there meanings.

The Fifth Circuit's judges who gave opinion in Vasquez v. United States 476 F.2d 730 (1973) maintain "The the National Firearms Act is drafted in a peculiar manner", this is consistent with the view the Respondent(s) had of the Petitioner's description of the Act as 'havinga narrow scope of review' just as the 5th Circuit Judges Gee and Garwood found upon appealate review of Anderson (case cited)

On en banc review Vasquez's panel of judges held that the decision given was based on the issues presented in this courts review of Freed(401 U.S at 609) but the issues present in Vasquez were not present at Freed where 26 U.S.C. §5845(a) enumerates desructive devices but excludes Pistol(s) as Vasquez's Pistol was in question so is this Petitioner's Kel-Tec Pistol.

In the Petitioner's case the District Court errored in not properly instructing the jurv of the definition of "firearm" provided by the statutory definition at (26 U. S.C. udes regulation of Pistol(s) and Revolver(s) having rifle

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Conclusion
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-d barrel(s) as the Petitioner's Kel-Tec Pistol does have.

The 11th Cir. Court's oversight of the standard of review caused the Petitioner's subject-matter jurisdiction claim raised to be denied when the statutory language itself resolves these matters. On Appeal to the 9th Circuit Court Ted Parker Fix's (4 Fed. Appx.324) conviction of the National Firearms Act of 1934 (Count V) was reversed as the government failed to prove violation of the National Firearms Act's defining statutes because Fix's weapon did not fit the definition within the statutes.

On appeal (in reply to the Petitioner) the Respondent sees this reading as one "limiting" the scope of the National Firearms Act's regulation. It is this line of reasoning that leads us to ask the Supreme Court for clarity as congress intends that "innocent" and "lawful" possession is not to leave lawabiding citizens liable for the harsh penalties of up to 10 years incarceration of which the Petitioner has served 12 months and another 12 month term of supervised release which was revoked for another 3 month term of incarceration at hearing on August 13th 2018 per request of the Office of Probation, which the Petitioner also has appealed.

All of the Petitioner's liberties have been at jeopardy following the district court's erronious decision, at sentencing the trial judge stated after reading the full language of the National Firearms Act statute which Petitioner had been found guilty of, stated "She would leave these matters up for the 11th Circuit to decide if she is right or wrong in her interpretation of the statutes meaning, which the 11th Circuit Court did not even interpret any of the statutes definitions, nor did the Eleventh Circuit review this courts views in Staples which this court and the 9th Circuit Court view in Fix(case cited) is based.

The Respondent's views of Owens(case cited) is at large the reasoning for this Petitioner's conviction as the Respondent contends "Knowledge of the registration requirement is not an element of the crime", but the issues present in Owens are not present in this Petitioner's case as Ownes was a store clerk attempting to make a sale of a National Firearms Act regulated "firearm", which was not registered to him as he was just the store's clerk and selling items that were on consignment. The Petitioner (Thomas I. LaFleur) owned the weapons in question and as he testified to during his trial did so under the rules and procedures of the Gun Control Act's statutes [18 U.S.C.S §921 et seq.], these governing statutes exist seperately of the National Firearms Act of 1934 and regulate the sale and transfer of gune in the United States of America, to which the Petitioner didnot violate.

Conclusion
(Continued.....)

The governments procedural posture is the 11th Circuit convicted and affirmed Ownes violation of the NFA's statutes because "knowledge is not an element of the crime", but United States Congress disagrees with this inconsistent thinking. United States Law does not allow innocent actors to be punished for crimes as mens rea is a legal requirement and standard this court holds must be proven, especially when the charging document states the Petitioner to be knowingly in possession of a "firearm" not registered to him in the National Transfer Record, a violation of the National Firearms Act, which the government has yet to prove. This Error went un-corrected by the 11th Circuit Court of Appeal as the Petitioner did not commit any crime in the United States Code.